



Physical Therapy Board of California

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY - GOVERNOR EDMUND G. BROWN JR.

# Physical Therapy Board of California

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## Board Members

### President

Alicia Rabena-Amen, PT, DPT

### Vice-President

TJ Watkins

### Members

Debra Alviso, PT, DPT

Jesus Dominguez, PT, PhD

Daniel Drummer, PT, DPT

Katarina Eleby

Tonia McMillian

## Physical Therapy Board of California Adopted Meeting Minutes

November 15, 2017 9:00 a.m.

November 16, 2017 9:00 a.m.

Ohlone College  
Health Science and Environmental  
Science Division  
39399 Cherry Street, Room NC 1100  
Newark, CA 94560

## Board Staff

Jason Kaiser, Executive Officer

Sarah Conley, Manager

Liz Constancio, Manager

Elsa Ybarra, Manager

Brooke Arneson, Associate

Analyst

For the sake of clarity, agenda items discussed during the meeting follow their original order on the agenda in these minutes though some agenda items may have been taken out of order during the meeting.

### 1. Call to Order

The Physical Therapy Board of California (Board) meeting was called to order by Vice President Rabena-Amen at 9:03 a.m. and recessed at 4:57 p.m. on November 15, 2017. The Board reconvened at 9:01 a.m. and adjourned at 2:47 p.m. on November 16, 2017.

### 2. Roll Call and Establishment of Quorum

Alviso – Present  
Dominguez- Present  
Drummer – Present  
Eleby – Absent  
McMillian – Absent  
Rabena-Amen - Present  
Watkins – Present

All members were present except for Katarina Eleby and Tonia McMillian; a quorum was established. Also present at the meeting were: Tara Welch and Salwa Bojack, Legal Counsels; Jason Kaiser, Executive Officer; and Sarah Conley and Monny Martin, Board staff.

**3. Review and Approval of August 23-24, 2017 Meeting Minutes – Becky Marco**

Ms. Conley presented the draft August minutes on Ms. Marco's behalf. It was noted by Dr. Drummer there were discrepancies in the vote records on agenda items #4 and #16. Dr. Drummer also questioned the necessity for the roll call voting if it was not recorded in the minutes. Ms. Welch advised an accounting of the roll call vote should be documented in the minutes. The Board concluded the minutes should be amended to reflect the roll call votes, the day on which the vote took place in the event an agenda item was taken out of order and attendance or absence of each Board member. The Board delegated the amendments to be made by the Executive Officer and staff accordingly for the President's signature.

**MOTION:** To approve the August 23-24, 2017 minutes as amended.

**M/S:** Alviso/Drummer

**VOTE:** Alviso – Aye  
Dominguez- Aye  
Drummer – Aye  
Eleby – Absent  
McMillian – Absent  
Rabena-Amen - Aye  
Watkins - Aye  
5-0 Motion carried

**4. Acting President's Report – Alicia Rabena-Amen**

(A) 2017 Adopted Meeting Calendar

Ms. Rabena-Amen commented that 2017 is coming to an end, leaving nothing to discuss.

(B) 2018 Proposed Meeting Calendar

Dr. Drummer questioned whether the 2018 calendar had been adopted; Mr. Kaiser responded it had been adopted. Dr. Drummer; therefore, suggested removing the reference to "Plan B." The Board discussed setting a date for Strategic Planning in conjunction with the March 2018 meeting dates and Dr. Dominguez advised because of CAPTE activities he would be restricted from attending on the Wednesday before the scheduled meeting in March. Mr. Kaiser advised more discussion would be had under the Executive Officer's report.

While the Board was conversing about meeting dates, Ohlone College offered to host the Board in December 2018.

## **5. Executive Officer's Report – *Jason Kaiser***

Mr. Kaiser discussed the roadmap developed by DCA's Solid Planning Solutions and advised, whether used or not, is a service paid for through pro rata. Dr. Drummer questioned whether Mr. Kaiser had seen the result of their work and whether he had confidence in the outcome. Mr. Kaiser responded while in the past he may not have been comfortable relying on their service, he has since seen the quality of their current product.

Mr. Kaiser and Dr. Drummer talked about the Board's outreach efforts at the California Physical Therapy's Association Annual Conference and expressed gratitude for being able to participate once again after seven years. Mr. Kaiser added to further outreach efforts he has accepted invitations to present at three programs in 2017 and 2018 and is looking forward to more invitations. Ms. Rabena-Amen questioned if the Outreach Committee appointed by President Eleby had a chance to meet; Mr. Kaiser replied they had not yet met.

Mr. Kaiser presented Veterinary Medical Board's proposed regulatory language on animal physical rehabilitation and noted it is in its regulatory process infancy. Ms. Welch stated there had already been a modification to the language in subsection (e.

While the Board was awaiting agenda item #8 and prior to entering into closed session it fielded questions from the Ohlone College students, which ranged from what the Board does in closed session to how to become a Board member.

## **6. Closed Session**

The Board went into closed session at 9:09 a.m. and again at 3:20 p.m.

- (A) Pursuant to Government Code section 11126(c)(3), Deliberation on Disciplinary Actions and Decisions to be Reached in Administrative Procedure Act Proceedings
- (B) Pursuant to Government Code section 11126(a)(1), Evaluation of Executive Officer

**7. Reconvene Open Session**

The Board reconvened at 10:45 a.m. after going into closed session at 9:09 a.m. and reconvened again at 4:56 p.m. after going into closed session at 3:20 p.m. The Board recessed at 4:57 p.m.

**8. Maximus – Healthcare Professionals Diversion Program Presentation - *Stephanie Trumm, Maximus***

Ms. Trumm presented on the history, mission, structure and components of the program.

**9. Discussion and Possible Board Action – *Sunset Review Report – Jason Kaiser***

- (A) Discussion and Possible Board Action Regarding AB 1706, (Committee on Business and Professions) Healing Arts: Chiropractic Practice: Occupational Therapy: Physical Therapy

Mr. Kaiser advised AB 1706 was chaptered into law extending the Board until January 1, 2022. He further advised the bill included repeal of Business and Professions Code (BPC) section 2648.7 authorizing retired license status exemption. The repeal allows the Board to rely on BPC section 464 for retired license status exemption. The Bill also grants the Board discretion when granting exemptions from BPC section 2653(b) and exempts licensees from specific English- speaking countries. Finally, the Bill repeals BPC section 2688.5, which requires the Board to submit a report to the legislature when the Board increases its fees. The Bill did not include extending fee caps which are currently at their ceiling.

**10. Legislation Report – *Jason Kaiser***

- (A) Discussion and Possible Board Action Regarding the 2017/18 Legislative Session Summary

- i. Discussion and Possible Board Action Regarding AB 208 (Eggman) Deferred Entry of Judgment Pretrial Diversion

Mr. Kaiser referred the members to the report included in the agenda book and advised AB 208 had been amended to a point where the concerns of the Board had been alleviated. He also pointed out that AB 387, the Minimum Wage bill for Health Professionals had been Ordered to the Inactive File.

## 11. Rulemaking Report – *Becky Marco*

### (A) Discussion and Possible Board Action Regarding the 2017 Rulemaking Update

#### i. Examination Passing Standard/Setting Examination Score

Mr. Kaiser reported on Ms. Marco's behalf that the required documentation had been submitted to the Department of Consumer Affairs (DCA) and it was at the beginning of the new rulemaking process implemented by DCA.

### (B) Discussion of Issues and Possible Board action regarding Guidelines for Issuing Citations and Imposing Discipline, 6<sup>th</sup> Edition

Mr. Kaiser presented the issues of concern raised in the Briefing Paper. Dr. Dominguez questioned whether it's 30 days of negative tests or is it 30 tests in 30 days in "issue #1"? Mr. Martin responded it is a common question from probationers to which he explains each term of an Administrative Order to the Respondent and he advises the 30 days of negative tests usually results in closer to 45 days as the number of days is dependent on the participation of the Respondent. Dr. Alviso suggested the language be placed in "Term Y" which will ensure it is included in the Administrative Order. Ms. Welch suggested mirroring language of "Term Y" in the Overview. The Board concluded this issue with clarifying the period of 30 days by amending language contained in "Term Y" to read:

"The Board shall determine whether or not the Respondent is safe to return to full-time or part-time work, and what restrictions shall be imposed on the Respondent. However, Respondent shall not return to practice until he or she has negative drug tests for a period of at least 30 days."

They will also mirror the modified language in "Term Y" in the Overview. The Board discussed this at length and concluded to add Business and Professions Code section 480 to the Guidelines with a minimum discipline of Public Reprimand and maximum discipline of Application Denial.

The Board accepted the other three staff recommendations used in the Briefing Paper regarding Cost Recovery, Maintenance of a Valid License and Notice to Consumer. The Board concluded its review and adopted the proposed modifications to the Guidelines for Issuing Citations and Imposing Discipline, 6<sup>th</sup> Edition.

**MOTION:** To approve the proposed regulatory changes as modified, direct the Executive Officer to take all steps necessary to initiate the rulemaking process, authorize the Executive Officer to make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day comment period, and if no adverse comments are received during the 45-day comment period, and no hearing is requested, adopt the proposed regulatory changes as modified.

**M/S:** Watkins/Dominguez  
**VOTE:** Alviso – Aye  
Dominguez – Aye  
Drummer – Aye  
Eleby – Absent  
McMillian – Absent  
Rabena-Amen – Aye  
Watkins – Aye  
5-0 Motion carried.

(C) Discussion of Issues and Possible Board Action Regarding Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist or Physical Therapist Assistant/Coursework Tool

The Board discussed the language as presented by Mr. Kaiser and agreed to amend the language by adding date ranges and quotation marks to the titles of each CWT. It further decided to strike from the title of CWT 6, “*For Implementation Beginning January 1, 2016*” and add in parenthesis language “for individuals who graduated on or after January 1, 2017.”

**MAIN MOTION:** To approve the proposed regulatory changes and direct the Executive Officer to take all steps necessary to initiate the rulemaking process, authorize the Executive Officer to make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day comment period, and if no adverse comments are received during the 45-day comment period and no hearing is requested, adopt the proposed regulatory changes as modified.

**M/S:** Drummer/Watkins

**MOTION TO AMEND MAIN MOTION:** To add the language “as modified” to the main motion.

**M/S:** Dominguez/Alviso  
**VOTE:** Alviso – Aye  
Dominguez – Aye  
Drummer – Aye  
Eleby – Absent  
McMillian – Absent  
Rabena-Amen – Aye  
Watkins – Aye  
5-0 Motion carried

**MAIN MOTION AS AMENDED:** To approve the proposed regulatory changes as modified and direct the Executive Officer to take all steps necessary to initiate the

rulemaking process, authorize the Executive Officer to make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day comment period, and if no adverse comments are received during the 45-day comment period, and no hearing is requested, adopt the proposed regulatory changes as modified.

**M/S:** Drummer/Watkins  
**VOTE:** Alviso – Aye  
Dominguez – Aye  
Drummer – Aye  
Eleby – Absent  
McMillian – Absent  
Rabena-Amen – Aye  
Watkins – Aye  
5-0 Motion carried.

## **12. Discussion and Possible Board Action Regarding 2018 Rulemaking Calendar- *Becky Marco***

Mr. Kaiser presented the proposed 2018 Rulemaking Calendar.

**MOTION:** To adopt the proposed 2018 Rulemaking Calendar as presented.  
**M/S:** Watkins/Alviso  
**VOTE:** Alviso – Aye  
Dominguez – Aye  
Drummer – Aye  
Eleby – Absent  
McMillian – Absent  
Rabena-Amen – Aye  
Watkins – Aye  
5-0 Motion carried

## **13. Public Comment on Items Not on the Agenda**

Please note that the Board may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code sections 11125, 11125.7(a).]

There was no public comment.

## **14. Recess**

The Board recessed at 4:57 p.m. on Wednesday, November 15, 2017 – Day one

**Agenda – Thursday, November 16**

**15. Call to Order**

The Physical Therapy Board of California (Board) meeting was called to order by Vice President Rabena-Amen at 9:01 a.m. on November 16, 2017.

**16. Roll Call and Establishment of Quorum**

Alviso – Present  
Dominguez – Present  
Drummer – Present  
Eleby - Absent  
McMillian - Absent  
Rabena-Amen – Present  
Watkins - Present

All members were present with the exception of Katarina Eleby and Tonia McMillian, and a quorum was established. Also present at the meeting were: Tara Welch and Salwa Bojack, Legal Counsels; Jason Kaiser, Executive Officer; Sarah Conley and Monny Martin, Board staff.

**17. Discussion and Possible Board Action for the Increase in Board Level and Exempt Status of the Executive Officer – *Alicia Rabena-Amen***

Ms. Rabena-Amen reported the Board has the support of DCA in their request to increase the level and status of the Executive Officer; however, a response has not yet been received.

**18. Closed Session**

The Board did not enter into closed session on day two, November 16, 2017.

- (A) Pursuant to Government Code section 11126(c)(3), Deliberation on Disciplinary Actions and Decisions to be Reached in Administrative Procedure Act Proceeding
- (B) Pursuant to Government Code section 11126(a)(1), Evaluation of Executive Officer

**19. Reconvene Open Session**

The Board did not enter into closed session.

## **20. Consumer and Professional Associations and Intergovernmental Relation Reports**

### **(A) Federation of State Boards of Physical Therapy (FSBPT)**

There was no representative from the FSBPT present. However, Mr. Kaiser, Mr. Watkins and Dr. Rabena-Amen all shared their experience from the Annual Meeting. Mr. Kaiser advised he was appointed to the Council of Board Administrators Nominating Committee and currently sits on the Continuing Competency Committee while Ms. Rabena-Amen sits on the Foreign Educated Committee. He went on to express the importance of being a presence and representing the Board. Mr. Watkins' shared his observation was that the FSBPT was more commercial oriented than consumer protection oriented. Ms. Rabena-Amen followed-up by commenting she was proud of the California Board and its focus on its mission. Mr. Rabena-Amen asked to have the Performance Evaluation Tool developed by FSBPT on the Board's next agenda.

### **(B) Department of Consumer Affairs (DCA) – Executive Office**

Karen Nelson, Assistant Deputy Director of Board and Bureau Services reported on staff changes; the quarterly Leadership forum on September 2<sup>nd</sup>; the Future Leadership Program Development launch in May; Pro Rata Workgroup meetings August and October; DCA Strategic Plan release in July; and, mandatory sexual harassment training is required in 2017.

### **(C) California Physical Therapy Association (CPTA)**

No representative was present.

## **21. Board Member Training – Jason Kaiser**

### **(A) Council on Licensure, Enforcement and Regulation (CLEAR) Administrative Rulemaking**

The Board found the training to be valuable and applicable to their roles and responsibilities. They encouraged further training at future meetings.

After the training, the Board once again responded to questions from the Ohlone College students.

## **22. Administrative Services Report**

### **(A) Budget– Araceli Strawmier**

Mr. Kaiser presented on behalf of Ms. Strawmier drawing attention to the State's migration to a new accounting system that has suspended budget reports temporarily.

(B) Outreach – Araceli Strawmier

Mr. Kaiser directed the Board to the report in the agenda materials and explained recruitment for a staff person designated specifically for outreach is underway. He added the Board is seeking a new template for its website design.

**23. Application Report – Sarah Conley**

Ms. Conley presented on her report included in the agenda book and fielded questions regarding the data presented.

**24. Licensing Services Report – Sarah Conley**

(A) Continuing Competency Report

Again, Ms. Conley directed the members to the report included in the agenda book. Ms. Rabena-Amen questioned whether those audits where compliance is obtained are less labor intensive. Mr. Kaiser explained they all require an equal amount of attention.

(B) Discussion and Possible Board Action to Removal of Continuing Competency Approval Agency Recognition

i. Nursing and Rehab at Home

**MOTION:** To withdraw Approval Agency Recognition from Nursing and Rehab at Home.

**M/S:** Drummer/Watkins

**VOTE:** Alviso – Aye  
Dominguez - Aye  
Drummer - Aye  
Eleby – Absent  
McMillian - Absent  
Rabena-Amen - Aye  
Watkins – Aye  
5-0 Motion carried

ii. TERRIO Physical Therapy and Fitness

**MOTION:** To withdraw Approval Agency Recognition from TERRIO Physical Therapy and Fitness.

**M/S:** Alviso/Drummer  
**VOTE:** Alviso – Aye  
Dominguez - Aye  
Drummer - Aye  
Eleby – Absent  
McMillian - Absent  
Rabena-Amen - Aye  
Watkins – Aye  
5-0 Motion carried

iii. North Coast Rehab, Inc.

**MOTION:** To withdraw Approval Agency Recognition from North Coast Rehab, Inc.

**M/S:** Watkins/Rabena-Amen

**VOTE:** Alviso – Aye  
Dominguez - Aye  
Drummer - Aye  
Eleby – Absent  
McMillian - Absent  
Rabena-Amen - Aye  
Watkins – Aye  
5-0 Motion carried

iv. Care Resources

**MOTION:** To withdraw Approval Agency Recognition from Care Resources.

**M/S:** Dominguez/Watkins

**VOTE:** Alviso – Aye  
Dominguez - Aye  
Drummer - Aye  
Eleby – Absent  
McMillian - Absent  
Rabena-Amen - Aye  
Watkins – Aye  
Vote: 5-0 Motion carried

## **25. Consumer Protection Services Report – *Monny Martin***

Mr. Martin presented the report as included in the agenda materials and remarked how the performance measures reports are one quarter behind. The Board reviewed the data and commented on the volume.

**26. Probation Monitoring Report – Monny Martin**

Mr. Martin reported there are 93 licensees on probation, and of the 93 probationers, 8 are tolling and 22 are currently enrolled and participating in the Board’s Drug and Alcohol Recovery Monitoring Program, equaling 27% of all licensees on probation.

Mr. Kaiser commented on the volume of cases being managed by all enforcement staff which needs to be addressed in the future since the enforcement analysts currently are assigned approximately 100 cases each. And, Mr. Martin is monitoring close to that amount at 93 probationers. Dr. Drummer remarked it was impressive that none of the probationers were in violation which was representative of Mr. Martin’s efficiency.

**27. New “DCA Search” License Look Up Web Application – Sarah Conley**

Ms. Conley presented on the new DCA Search License Look Up Web Application. She advised how it is now real time search and separate from the Board’s search system which avoids taxing the system. She added that the new web application is also mobile friendly.

**28. Board Member Elections**

**(A) President**

**NOMINATION:** Mr. Watkins nominated Dr. Rabena-Amen as Board President.

**NOMINEES:** Rabena-Amen

**MOTION:** To elect Dr. Rabena-Amen as Board President.

**M/S:** Watkins/Alviso

**VOTE:** Alviso – Aye  
Dominguez – Aye  
Drummer – Aye  
Eleby – Absent  
McMillian – Absent  
Rabena-Amen – Aye  
Watkins – Aye  
5-0 Motion carried.

**(B) Vice-President**

**NOMINATION:** Dr. Dominguez nominated Dr. Drummer as Board Vice President.

**NOMINATION:** Dr. Rabena-Amen nominated Mr. Watkins as Board Vice President.

**NOMINEES:** Dr. Drummer and Mr. Watkins

**MOTION:** To elect a Board Vice President.

**M/S:** Rabena-Amen/Dominguez

**VOTE:** Alviso – Drummer

Dominguez – Drummer  
Drummer – Watkins  
Eleby – Absent  
McMillian – Absent  
Rabena-Amen – Watkins  
Watkins – Watkins  
3-2 in favor of Mr. Watkins/Motion carried.

**(C) FSBPT Delegate**

**NOMINATION:** Mr. Watkins nominated Dr. Rabena-Amen as Board FSBPT Delegate

**NOMINATION:** Dr. Rabena-Amen nominated Dr. Drummer as Board FSBPT Delegate

**NOMINEES:** Drummer and Rabena-Amen

**MOTION:** To elect a Board FSBPT Delegate

**M/S:** Watkins/Alviso

**VOTE:** Alviso – Drummer  
Dominguez – Drummer  
Drummer – Rabena-Amen  
Eleby – Absent  
McMillian – Absent  
Rabena-Amen – Drummer  
Watkins – Rabena-Amen  
3-2 in favor of Dr. Drummer/Motion carried.

**(D) FSBPT Alternate Delegate**

**NOMINATION:** Mr. Watkins nominated Dr. Dominguez as Board FSBPT Alternate Delegate

Dr. Dominguez declined the nomination.

**NOMINATION:** Dr. Rabena-Amen nominated Mr. Watkins as Board FSBPT Alternate Delegate

**NOMINATION:** Dr. Drummer nominated Dr. Dominguez as Board FSBPT Alternate Delegate

Dr. Dominguez sought information regarding the degree of commitment and accepted the nomination.

**NOMINEES:** Dominguez and Watkins

**MOTION:** To elect a Board FSBPT Alternate Delegate

**M/S:** Alviso/Drummer

**VOTE:** Alviso – Dominguez  
Dominguez – Watkins  
Drummer – Dominguez  
Eleby – Absent  
McMillian – Absent

Rabena-Amen – Dominguez  
Watkins – Watkins  
3-2 in favor of Dr. Dominguez/Motion carried

**(E) FSBPT Back-up Alternate Delegate**

**MOTION:** To adopt the procedure of establishing back-up alternate delegates by alphabetical order of Board members.  
**M/S:** Drummer/Dominguez  
**VOTE:** Alviso – Aye  
Dominguez – Aye  
Drummer – Aye  
Eleby – Absent  
McMillian – Absent  
Rabena-Amen – Aye  
Watkins – Aye  
5-0 Motion carried.

**29. Public Comment on Items Not on the Agenda**

*Please note that the Board may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code sections 11125, 11125.7(a).]*

Dr. Rabena-Amen thanked Ms. Welch for service as counsel to the Board.

**30. Agenda Items for Future Meeting –**

March 22 & 23, 2018  
Department of Consumer Affairs  
HQ2 Hearing Room  
1747 North Market Blvd.  
Sacramento, CA 95834

Agenda items for the next meeting are FSBPT's Performance Evaluation Tool (PET), Application Processing and Strategic Planning.

**31. Adjournment**

The meeting adjourned at 2:47 p.m.